REMARKS

Claims 9-44 were presented for examination and claims 9-44 were rejected. Thus, claims 9-44 are currently pending in this application, of which claims 9 and 27 are independent. Applicants submit that claims 9-44 are in condition for allowance.

The following comments address all stated grounds of rejection. Applicants respectfully traverse all rejections and urge the Examiner to pass the claims to allowance in view of the remarks set forth below.

Examiner Interview

Applicants and his attorneys thank the Examiner for the Examiner's Interview conducted on July 1, 2008. The substance of the interview included discussing the scope of the prior art in view of the Examiner's comments in the non-Final Office Action of March 3, 2008. In view of our discussions, the Examiner agreed that the Batra reference did not disclose, teach or suggest each and every feature of the claimed invention. The Examiner indicated he would like to update his search in response to the Applicants responding to the non-Final Office Action.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

I. Claims 9-13, 21, 24-31, 39 and 42-44 Rejected Under 35 U.S.C. §103

Claims 9-13, 21, 24-31, 39 and 42-44 are rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 6,105,067 to Batra ("Batra") in view of RFC 2616, Fielding et al. ("Fielding"). Claims 9 and 27 are amended independent claims. Claims 10-13, 21 and 24-26 depend on and incorporate all the patentable subject matter of independent claim 1, as amended. Claims 30, 31, 39 and 42-44 depend on and incorporate all the patentable subject matter of independent claim 27, as amended. Applicants respectfully traverse this rejection and submit

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that Batra and Fielding, alone or in combination, fails to teach or suggest each and every element in the claimed invention.

    A. <u>Independent Claims 9 and 27 Patentably Distinguished over Batra and Fielding</u>

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. Independent claims 9 and 27 are directed towards pooling a transport layer connection on a server. These claims recite that a interface unit determines from monitoring application layer data of network traffic received by the interface unit that a second client and the server are not transferring data for a second request via the second transport layer connection. These claims also recite that the interface unit determines from monitoring application layer data of network traffic received by the interface unit that the second client and the server are transferring data for the second request via the second transport layer connection. Batra fails to disclose, teach or suggest each and every element of independent claims 9 and 27.

Batra does not teach or suggest monitoring application layer data of network traffic received by the interface unit to determine whether or not a client and server are transferring data. In the Office Action, the Examiner admits the Batra does not teach or suggest this feature of the claimed invention and cites Fielding for this purpose. The Examiner contends that Batra discloses the use of timestamps to determine when a connection is in use and that Fielding teaches the use of timestamps as part of application layer traffic. The Examiner further concludes that one skilled in the art would have understood Batra's determination of a connection being in use to be based on monitoring application layer data. Applications respectfully disagree.

First, Batra does not use timestamps to determine if a client and server are transferring data but instead to indicate the time a servlet last returned a connection to the connection pool. The connecting manager of Batra (which the Examiner equates to the interface unit of the claimed invention) merely updates an internally stored timestamp each time a servlet finishes using a connection. (see Batra, col. 11, lines 40-64). The value of the timestamp is provided by the servlet upon returning the connection via the connection manager to the connection pool and is not obtained via network traffic received by the connection manager. Furthermore, the timestamp does not indicate whether or not a connection is transferring data. The connection manager only knows when a connection is requested from the connection pool and when the connection is returned to the connection pool. The timestamp does not identify transferring of data but the last time a servlet returned the connection to the pool. The connection manager does not know when data is transferred via the connection used by the servlet. Thus, Batra does not disclose the use of timestamps to determine whether or not data is being transferred via a connection.

Additionally, as the connection manager of Batra only receives requests for connections and returns of connections from a servlet via an application programming interface (API), none of the application layer data of network traffic communicated via the connection traverses the connection manager. Instead, the servlet receives application layer data of network traffic and the connection manager receives API calls. Because application layer data of network traffic does not traverse the connection manager of Batra, the connection manager cannot monitor application layer data of network traffic to make a determination of data being transferred via a connection.

As with Batra, the timestamps of Fielding fail to teach or suggest monitoring application layer data of network traffic received by the interface unit to determine whether or not a client and server are transferring data. Fielding is merely an RFC for the HTTP protocol. Fielding describes a format for a timestamp to be included in the header of the HTTP protocol and that the timestamp may be used to indicate when a data value was last updated. However, like the timestamp of Batra, the timestamp of Fielding does not indicate whether or not a client and server are transferring data via the connection. The timestamps of Batra and Fielding only indicate a time of a last event, such as the return of a connection or an update to a data record. As such, even using the timestamp of Fielding with Batra would not provide the claimed invention. Furthermore, there is no teaching or suggestion in Fielding to monitor application layer data of network traffic to provide the pooling features of the claimed invention.

Because Batra and Field, alone or in combination, fails to disclose, teach or suggest each and every feature of the claimed invention, Applicants submit independent claims 9 and 27 are patentable and in condition for allowance. Claims 10-13, 21 and 24-26 depend on and incorporate all the patentable subject matter of independent claim 9, and claims 30, 31, 39 and 42-44 depend on and incorporate all the patentable subject matter of independent claim 27. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 9, 10-13, 21, 24-26, 27, 30-31, 39 and 42-44 under 35 U.S.C. §103.

II. Dependent Claims 14, 15, 16, 17, 18, 19, 22, 23, 32, 35, 40 and 41 Rejected Under 35 U.S.C. §103

Claims 14, 22, 23, 32, 40 and 41 are rejected under 35 U.S.C. §103 as unpatentable over Batra in view of U.S. Patent No. 6,163,812 to Gopal et al. ("Gopal"). Claims 15 and 16 are

rejected under 35 U.S.C. §103 as unpatentable over Batra in view of U.S. Patent No. 6,631,417 to Balabine ("Balabine") and further in view of Fielding. The Examiner rejected claims 16, 18, 19, 33, 34, 36 and 37 for the same reasons as claim 15. Claim 17 is rejected as unpatentable over Batra in view of Fielding. Applicants traverse these rejections and submit that Batra, Fielding, Balabine and Gopal, alone or in combination, fail to teach or suggest each and every feature of the claimed invention. Claims 14-19, 22 and 23 depend on and incorporate all the patentable subject matter of amended independent claim 1. Claims 32, 35, 40 and 41 depend on and incorporate all the patentable subject matter of amended independent claim 27. Applicants traverse these rejections and submit that Batra, Gopal, Fielding and Balabine, alone or in combination, fail to teach or suggest each and every element of the claimed invention.

For the reasons discussed above in connection with the rejection of independent claims 9 and 27 under 35 U.S.C. §103, Applicants submit that independent claims 1 and 27 are patentable over Batra. As with Batra, neither Gopal nor Fielding nor Balabine teach or suggest monitoring application layer data of network traffic received by the interface unit to determine whether or not a client and server are transferring data as in the claimed invention. Thus, Gopal, Fielding and Balabine, alone or in combination, fail to detract from the patentability of dependent claims 14, 15, 16, 17, 18, 19, 22, 23, 32, 35, 40 and 41. Accordingly, Applicants request the Examiner to withdraw the rejection of dependent claims 14, 15, 16, 17, 18, 19, 22, 23, 32, 35, 40 and 41 under 35 U.S.C. §103.

CONCLUSION

In view of the above arguments, Applicants contend that each of the Examiners rejections has been adequately addressed and all of the pending claims are in condition for allowance. Accordingly, Applicants respectfully request reconsideration, withdrawal of all grounds of rejection, and allowance of all of the pending claims.

Should the Examiner feel that a telephone conference with Applicants' attorney would expedite prosecution of this application, the Examiner is urged to contact the Applicants' attorney at the telephone number identified below.

Respectfully submitted,

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